

STATE OF NEW JERSEY
DEPARTMENT OF TREASURY
DIVISION OF PROPERTY MANAGEMENT & CONSTRUCTION
P.O. BOX 034, TRENTON, NJ 08625-0034

PROJECT: P1131-00
New Meadowlands Rebuild By Design Project
Feasibility Study, EIS, Design and Construction Administration
Services (TC-001)

DATE: August 13, 2015

ADDENDUM "A"

This ADDENDUM is issued for the purpose of clarifying and amending certain requirements of the Request for Proposal as noted hereinafter, and is hereby made part of and incorporated in the Consultant's Contract. The consultant is to consider these matters when preparing their technical and fee proposals for this contract. Unless specifically noted or specified hereinafter, all work shall comply with the applicable provisions of the Contract.

- **Reminder:** Technical proposals and fee rates (one original and five copies) are due **no later than 2:00 p.m., September 3, 2015.**
- **Clarification of Scope of Work, Section 7.1, Overview of Services Required By Consultant, Page 17, Bullet 11** - Delete the second sentence as follows, "Please note this is a deliverable as part of the feasibility study."
- The "Key Team Member Project Experience Data Sheet" and "Project Key Personnel" forms are attached. Copies of both forms are also posted to the DPMC website at www.state.nj.us/treasury/dpmc. Click on the "Project Advertisements" link on the left side of the home page and select "A/E Major Contract Advertisements". The forms are posted with the RFP information found under the project number.
- Question asked at Pre-Proposal Meeting regarding requirement under Section 5.2.4, page 13 that all personnel listed at or above Level 4 shall be designated as key personnel. **Replace "Level 4" with "Level 5." Revised sentence:** All personnel listed at or above "Level 5" shall be designated as key personnel and considered a contractual commitment by the Consultant.

Responses to Consultant Questions (*Responses are in Italics*)

AECOM:

1. The RFP section 4.3.1 specifies that the project team must have current DPMC prequalification in Civil Engineer (05), Hydrology (47), Environmental Engineering (11), and Estimating/Cost Analysis (25). The RFP also states that, "Consultants shall also have in-house capabilities or Sub-Consultants pre-qualified with DPMC in all other Architectural, Engineering and Specialty Disciplines necessary to complete the project as described in this RFP." During the mandatory pre-proposal meeting on August 5, DPMC declined to make a determination on what other specific disciplines will be required. From the RFP language and discussion at the pre-proposal meeting, can we assume the following:

- Prequalification in the four disciplines, Civil Engineer (05), Hydrology (47), Environmental Engineering (11), and Estimating/Cost Analysis (25); is sufficient for a project team to complete the work in the RFP.

Answer: Yes, the consulting team must include a prime firm DPMC prequalified in Civil Engineering (with an “unlimited” dollar rating) and Hydrology. The “unlimited” dollar rating applies only to the Civil Engineering discipline. The prime firm must have both disciplines. In addition, the consulting team must include firms (either the prime firm or a sub-consultant) prequalified with the DPMC in Environmental Engineering and Estimating/Cost Analysis. These two disciplines are also not subject to the “unlimited” dollar rating. If the prime firm is prequalified in Environmental Engineering and/or Estimating/Cost Analysis, the prime firm may self-perform these services. If the consulting team does not meet these criteria, the proposal will be deemed non-responsive to the RFP and will not be considered.

- All sub-consultants must be prequalified in their specific area of expertise, if it's listed by the DPMC to participate in the project.

Answer: Yes, in addition to the requirements noted above. Subconsultants in other DPMC prequalified disciplines may be proposed by the consultant in their technical proposal or could be proposed and included in a future work order as determined to be necessary.

2. General Conditions to the Rebuild by Design New Meadowlands Project Term Contract TC-001, Page 10 Time of Completion clause states, “In the event of the failure of the Consultant to complete the work within the time specified solely due to their own cause of delay, the Consultant may be liable to the Owner for all direct and consequential losses or damages that the Owner may incur because of the delay...” The determination of consequential losses or damages is very subjective and can reach beyond the true losses or damages caused by delay of the project by the consultant. The subjectivity of this clause is significant enough to prevent acceptance of the contract terms and conditions and will result in fewer submissions and a less competitive environment for DPMC.

Please consider striking the “and consequential” from this clause so that it reads, “In the event of the failure of the Consultant to complete the work within the time specified solely due to their own cause of delay, the Consultant may be liable to the Owner for all direct ~~and consequential~~ losses or damages that the Owner may incur because of the delay...”.

Answer: The DPMC will agree to this revision to the General Conditions for TC-001. A revised General Conditions to the Rebuild by Design for the New Meadowlands project revised 8/15 is attached and will be posted to the DPMC website.

3. General Conditions to the Rebuild by Design New Meadowlands Project Term Contract TC-001, Page 12 states, “The injured Consultant or Contractor or Owner shall have a right of enforcement in court directly against the culpable party. In addition, the culpable party further agrees to indemnify and save harmless the Owner from all such claims and damages. Nothing contained in this paragraph shall be construed to relieve the culpable Consultant from any liability or damage sustained on account of its acts, errors or omissions.”

The broad indemnification in this clause will invalidate professional liability insurance held by many consultants. Please consider the following change in language (shown in italics/underlined) to ensure that the consultant and DPMC have the benefit of the consultant's professional liability insurance. “The injured Consultant or Contractor or Owner shall have a right of enforcement in court directly against the culpable party. In addition, the culpable party further agrees to defend, indemnify and save harmless the Owner from all such claims and damages to the extent caused by the Consultant's negligent acts, errors or

omissions. Nothing contained in this paragraph shall be construed to relieve the culpable Consultant from any liability or damage sustained on account of its negligent acts, errors or omissions.”

The broad indemnification provisions in this clause are significant enough to prevent acceptance of the contract terms and conditions and will result in fewer submissions and a less competitive environment for DPMC.

Answer: The DPMC will agree to revise the General Conditions TC-001 language in Section 11A on pages 12 and 13. This language is similar but slightly different than what has been proposed. A revised General Conditions to the Rebuild by Design for the New Meadowlands project revised 8/15 is attached and will be posted to the DPMC website.

4. Section 8.2 of the RFP states that, “The State may impose liquidated damages on the Consultant in the event its performance is not timely.” Within the RFP and at the pre-proposal meeting, the DPMC committed to making a good faith effort to estimate the actual damage that will ensue from a breach and/or delay by Consultant and to negotiate this on a work order to work order basis. Many work order schedules may be heavily dependent on performance by parties outside of the consultant’s control. Acquisition of access agreements, the scope and timing of stakeholder input, review of interim work products by NJDEP are just a few examples. Can we assume that the liquidated damages to be negotiated on a work order basis will make recognition of these schedule implications outside of the consultant’s control?

Answer: Yes, liquidated damages will apply only to delays caused by factors within the consultant’s control.

5. Page 6 of the RFP defines what is to be included in the loaded rates which includes among other things “... reproduction, printing...”. While we take no exception to having these items included in our rates for routine copying and printing there are several work products that we anticipate to be Work Order deliverables that have the potential for significant costs that are too ill-defined at this point in the project to quantify. For example printing of the EIS, how many copies, how large a document is expected, will it be one EIS for the entire project or just Pilot Area 1? On page 19 under Section 7.2 Potential Work Order Assignments item 5. Bid Services it states “The Consultant **may be required** to prepare and distribute the entire bid package. ... including printing, **copying, reproducing**, collating... **mailing**...”. Since the number of bids and the number of copies of each item per bid to be printed are not defined, and there is no estimate at this time of the size of each bid set, it is not truly possible to develop an estimate of these costs for a task that only “**may be required**”. Similarly at this time, for the 50%, 95% and 100% submittals, it’s impossible to estimate the size of the specification sets, permit packages, and design drawing sets, nor are the number of copies of each submittal defined. For these large deliverables, per Work Order, will the State consider using an allowance for the cost of these deliverables? If yes will we be required to obtain 3 vendor quotes?

Answer: Yes, the DPMC will eliminate reproduction and printing of deliverable documents from the definition of the loaded hourly rate and an allowance will be designated at the time of work order development for these reproduction costs. The consultant will be required to obtain three vendor quotes for these reproduction costs and use the selected vendor for these services.

6. Will the State pay permit fees directly to the regulatory agencies?

Answer: No, the consultant will be required to pay permit fees to regulatory agencies. These fees will not be part of the loaded hourly rates and would be included in the work order as an allowance and reimbursed to the consultant.

7. When will the forms missing from the RFP be provided?

Answer: As indicate above, the “Key Team Member Project Experience Data Sheet” and “Project Key Personnel” forms are attached. Copies of both forms in electronic format are also posted to the DPMC website at www.state.nj.us/treasury/dpmc. Click on the “Project Advertisements” link on the left side of the home page and select “A/E Major Contract Advertisements”. The forms are posted with the RFP information found under the project number.

8. Can you clarify the number of copies of the proposal that will be required to be submitted?

Answer: Consultants shall submit one original and five copies of the technical proposal and fee rates.

9. Can you clarify the Small, Minority, and Women Business Enterprise (SBE/MBE/WBE) requirements and/or goals for the project and whether you are following State or Federal Business Enterprise designations?

Answer: As per the requirements set forth in Section “H” of the Statement of Assurances document attached to the RFP, the consultant will be required to take affirmative steps to ensure contracting opportunities are provided to small business enterprises as designated by the State of New Jersey. Specific goals are not set or provided under this section, therefore a specific goal will not be set by the State for this term contract. However, since this contract will be funded using CDBG-DR grant funds, it must comply with HUD requirements. Therefore, the prime consultant will be required to demonstrate that affirmative steps are being taken to ensure contracting opportunities are provided to SBE firms and that the affirmative steps outlined in Section “H” (2 a-e) are being pursued. Consequently, the prime consultant should ensure that they demonstrate these affirmative steps by identifying subconsultants designated as SBEs in their firm’s technical proposal in response to the RFP and in their future work order proposals for subconsultants and subcontractors. Additionally, the prime firm may identify potential services in their technical proposal that will be considered for SBE firms. The prime firm’s affirmative steps will be reviewed at the technical proposal review phase by the selection committee as part of the evaluation criteria for the RFP and also at the time a specific work order proposal is evaluated.

10. Will selection for this contract as the prime or secondary contractor preclude you from being selected in the future CM/PM contract? If yes, and selected as the secondary firm, can the firm turn down that selection?

Answer: Selection of a firm as part of the primary or alternate consultant team will not preclude the firm from participation in the future CMF/PM contract (CMF-003) for the Rebuild by Design and Other Flood Mitigation Projects since this CMF contract will be awarded to multiple firms. However, assignments will be competitively solicited among the CMF firms/teams awarded a CMF 003 term contract and if an assignment is offered under the CMF contract for services involving the New Meadowlands project, the Consultant awarded a primary or alternate contract would not be permitted to participate in the competition for that specific project assignment. They would only be permitted to compete for project assignments not related to the New Meadowlands project. Additionally, the alternate firm

may request to be excluded from the Alternate Consultant designation at the time the intent to award is received, if they so choose.

Langan Engineering and Environmental Services, Inc.

1. Can professional consulting services such as urban planning, community outreach, socioeconomic analyses and real estate analyses, which do not appear to fall within any of the current DPMC Prequalification categories, be performed by specialty team members not pre-qualified by the DPMC?

Answer: Yes, the DPMC does not have prequalification disciplines for these specialty consultants.

2. Do sub-consultants/contractors like geotechnical drillers, testing laboratories and aerial photography, need to be listed in the proposals, or can they be hired through a competitive bidding process during work order implementation?

Answer: Subconsultants and subcontractors can be contracted during work order implementation through a competitive bidding process. They do not need to be listed in the consultant's technical proposal. SBE firms should also be considered for these contracting opportunities.

3. Is there a specific target percentage of work for Small Business Enterprises (SBEs) for this contract?

Answer: No, see response to Question 9 above on page 4.

4. Do all of the forms required under 5.2.5 and 5.2.6 need to be completed by all team members?

Answer: The administrative forms listed in Sections 5.2.5 and 5.2.6 of the RFP are required only of the prime firm.

CDM Smith

1. Please confirm that DPMC pre-qualification is not required for cost benefit analysis, community outreach, urban planning, grant support and economic redevelopment activities.

Answer: Confirmed, the DPMC does not have prequalification disciplines for these consultants, so prequalification will not be required.

2. Please confirm that the all-inclusive labor rates do not include costs for subcontracted items such as; land surveying, drilling, laboratory analysis, permits etc. We understand these activities will be bid out competitively once contract has been awarded.

Answer: Confirmed, these subcontracted services are not to be included in the labor rates and will be handled separately in each work order as necessary. These fees would be included in the work order as an allowance and reimbursed to the consultant.

3. Please confirm that the following sentence will be removed from Bullet 11 page 17 of the RFP:

- Please note that this (...engineering design, construction plans, drawings and specifications.....) is a deliverable as part of the feasibility study.

Answer: The sentence is deleted. Please see Bullet #2 above.

Tetra Tech

1. Is the EIS required for the entire New Meadowlands area or only Pilot Area #1?

Answer: The EIS will address Pilot Area #1 and adjacent areas or municipalities that are deemed necessary to include.

2. Is the consultant's proposed project manager required to have a NJ PE license at the time of the submittal or can the PE license be pending?

Answer: Yes, the project managers NJ PE license must be active at the time of the firm's proposal submittal.

3. Please clarify if an allowance for subcontractor services that cannot be predicted at this time (i.e. drilling test borings or lab analysis) would not be included in the personnel rates and that the assumed value of the allowance would not be included as one of the selection criteria.

Answer: Confirmed, these subcontracted services are not to be included in the labor rates and will be handled separately in each work order. These fees would be included in a future work order as an allowance and reimbursed to the consultant upon invoicing. No allowance value need be submitted with the firm's technical proposal.

4. Please clarify if legal access required to perform on-site activities (e.g., surveying, test borings) will be obtained for the successful bidder by others and that any associated fees are not required to be included in the personnel rates.

Answer: Legal access agreements will be executed by the NJDEP with assistance as necessary from the Attorney General's Office. However, the consultant may be required to provide technical consulting assistance in support of the State's efforts. Services provided for the consultant by specialty consultants (e.g. surveying, test borings) are not required to be included in the personnel rates. See response to Question 3 above also.

End of Addendum "A"